

CITY OF MORGAN HILL  
JOINT REGULAR CITY COUNCIL AND  
SPECIAL REDEVELOPMENT AGENCY MEETING  
MINUTES - FEBRUARY 21, 2001

**CALL TO ORDER**

Mayor/Chairman Kennedy called the special meeting to order at 7:00 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Carr, Chang, Sellers, Tate and Mayor/Chairman Kennedy

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

At the invitation of Mayor Kennedy, Bernie Mulligan led the Pledge of Allegiance.

**CITY COUNCIL REPORT**

Mayor Kennedy reported that he serves on the Valley Transportation Authority (VTA) Board of Directors and that he was appointed to serve as the Chairman of the Transit Planning and Operations Committee. This Committee focuses on light rail, Bart rail, Caltrain, and all transit centered issues. At the last meeting, he requested that an item be added to the regular agenda regarding a status report on the progress of the Caltrain service as the plans for expansion service to South County serving Morgan Hill, Gilroy, San Martin has not occurred due to difficulties in negotiations with Union Pacific Railroad (UPR). He said that there are a lot of issues involved as the UPR is concerned with their freight railroad operations. The concern is that additional passenger trains to this line could jeopardize their freight business. Other options are being considered such as adding a second track or adding rails to meet their needs. The VTA Board will continue to monitor the progress and do whatever it can. He stated that he would try to contact Norm Mineta, Secretary of Transportation, to see if he can assist with getting the project to move forward.

**CITY MANAGER'S REPORT**

City Manager Tewes reported that staff has begun the process of preparing the budget for Fiscal Year 2001-02. The City Council has met in a goal setting session and established a number of priorities and identified important projects. Staff will be bringing the recommended budget to the City Council, including

the multi-year Capital Improvement Program, on May 16 so that the City Council can schedule a series of public workshops and provide an opportunity for the public to comment. Staff is pleased to announce that the Budget Officer will be on board and be able to assist in presenting to the City Council and the community a meaningful and readable document, one that will help the City Council make policy decisions about the City's future. He informed the City Council that under Consent Item No. 3, a substitute resolution has been suggested by the City Attorney in order to comply with the emergency provisions of the purchasing ordinance.

### **CITY ATTORNEY'S REPORT**

City Attorney Leichter reported that she did not have a City Attorney's report to present this evening.

### **PUBLIC COMMENT**

Mayor Kennedy opened the floor to public comments for items not appearing on the agenda. No comments were offered.

## ***City Council Action***

### **CONSENT CALENDAR:**

**Action:**        *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **approved** Consent Calendar Items 1-8 as follows:*

1.     **JANUARY 2001 FINANCE AND INVESTMENT REPORT**

**Action:** ***Accepted and filed** report.*

2.     **APPROVAL OF SUBDIVISION IMPROVEMENT AGREEMENT WITH ALICINI PARTNERSHIP**

**Action:** ***Approved** the Subdivision Improvement Agreement and **Authorized** the City Manager to Sign the Agreement on Behalf of the City with Alcini Partnership.*

3.     **EMERGENCY PUMP, MOTOR AND CASING REPLACEMENT AT CONDUIT WELL - Resolution No. 5454**

**Actions:** *1) **Adopted modified** Resolution No. 5454, Declaring the Need for The Emergency Expenditure, and 2) **Approved** Expenditure of \$40,000 for Emergency Purchase and Installation of Replacement Pump, Motor and Casing at Conduit Well.*

4.     **AUTHORIZE THE PURCHASE OF A VEHICLE FOR THE POLICE DEPARTMENT**

**Actions:** *1) **Awarded** the Bid in the Amount of \$21,167.54 to South County Chevrolet for*

*a Van to Be Used by the Community Service Officers; 2) **Authorized** the City Manager to Purchase the Vehicle, and 3) **Authorized** Disposal of Surplus Vehicle Through Auction.*

**5. AMENDMENT TO THE MANAGEMENT RESOLUTION - Resolution No. 5455**

***Actions:** 1) **Adopted** Resolution No. 5455 Amending the Management, Professional and Confidential Employees Resolution No. 5320 to Change Salary Range and Title of the Position of Human Resources Manager and Add the Classification of Human Resources Supervisor; and 2) **Allocated** Funds to the Human Resources Office Budget from General Fund Reserves to Cover the Increased Expenditure for FY 2000-01.*

**6. MOVE ENVIRONMENTAL PROGRAMS FUNCTION TO THE CITY MANAGER'S OFFICE; AMENDMENT TO THE MANAGEMENT RESOLUTION - Resolution No. 5457**

***Actions:** 1) **Approved** Budget Adjustment Moving Environmental Programs Function and Revenue to City Manager's Office, 2) **Approved** a Budget Adjustment adding a Second Assistant to the City Manager Position to the City Manager's Office Budget for 2000-01, and Shifting the Position of Office Assistant II from the Environmental Programs Budget to the City Manager's Office Budget; and 3) **Adopted** Resolution No. 5457 Amending the Management, Professional and Confidential Employees Resolution No. 5320 to Eliminate the Position of Environmental Programs Manager and Incorporating Other Approved Changes.*

**7. APPROVE DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM AND ANNUAL GOAL**

***Action:** 1) **Approved** the City's Disadvantaged Business Enterprise (DBE) Program and Annual Overall DBE goal of 8% for the Federal Fiscal Year 2000/2001, Beginning on October 1, 2000 and Ending on September 20, 2001, and 2) **Authorized** the City Manager, by Adoption of The Council Report, to Sign the Final DBE Program and Submit it to Caltrans on Behalf of the City.*

**8. SPECIAL CITY COUNCIL MEETING MINUTES OF FEBRUARY 9, 2001**

***Action:** Approved the Minutes as submitted.*

**PUBLIC HEARINGS:**

**9. APPLICATION ZA-00-09: ST. LOUISE - SAN JOSE CHRISTIAN COLLEGE**

*(Continued from 2/7/01)*

Mayor Kennedy indicated that this item was continued from the City Council's February 7, 2001 meeting for the limited purpose of allowing the applicant to present new information regarding their application for rezoning. He stated that public comments would also be limited to new information brought forward by

the applicant this evening.

Mayor Kennedy opened the continued public hearing.

Dr. Roger Edrington, Executive Vice-President for San Jose Christian College (College), thanked supporters of the project for their letters and phone calls. The supporters have encouraged the College in the process and indicated that they want to see the College become successful in its venture to move to its new home in Morgan Hill. He stated that the College looked closely at the Cochrane site and concluded that it could be converted into a college and enter into the Morgan Hill community. He indicated that the City's professional planning staff, the independent consultant hired by the City, and the Morgan Hill Times have concluded that a hospital is not feasible at this location and that the College would be a suitable use for the land. He stated that the College attempted to work with the City to help address concerns regarding local healthcare short comings that have been expressed by some Morgan Hill residents. However, as a small privately funded institution, the College is not able to shoulder the financial burden and help its students with their education. Should the City Council deny the zoning request, it would impose a substantial burden on the religious exercise of its institution. He emphasized that the College owns property which the general plan designates as public facilities which includes private, higher education. He requested that the PUD be amended to add a College to the designation of the site. He stated that the request is a land use issue that has been politicized. The issue of medical services has been tied to the land use and that its only relationship to the College is the way that the facility is configured. He felt that there were many other properties in Morgan Hill which can be built or remodeled to accommodate a healthcare facility when the services are needed. He stated that the City holds the power to solve the problem of zoning other lands for medical services. He did not believe that a hospital needs to be on the College's Cochrane site as the General Plan Task Force recommendation shows other possibilities. He requested that the City Council approve the application for rezoning. With this vote, the Council would replace a beautiful, but dead property with a vital and healthy institution of higher learning that will contribute a great deal to the community. He introduced David Cardinal, project architect with BGFC Architects. He indicated that Mr. Cardinal would reply to the question relating to the demolition permit raised at the previous meeting.

David Cardinal addressed the intended scope of work and what would be embraced in the application of the demolition permit.

Council Member Chang stated that she reviewed the demolition permit on the project plans which identify Phase III - future additions and revisions. She said that the note states that "16 buildings would be remodeled into a new campus for the San Jose Christian College. Work will be staged in three major phases of activity. Phase I, non structured demolition; Phase II building remodel; Phase III future additions/new constructions and future building permits." She said that it appears that the applicant has three scopes of work included in the plans and inquired if it if proposed to proceed all three phases?

Mr. Cardinal clarified that the building department requires that an application be very explicit as to the scope of the demolition permit. He said that the plans would exclude any other work except interior

demolition of the existing structure. He clarified that often, building departments and the State architect's office request that applicants show what is not being done. He said that it was the intent to exclude phases from the permit application except interior demolition of the structure. In his dealings with the building official, he wanted to be certain that it was understood that the permit was for demolition and not to remodel or add new construction.

Council Member Chang read from the note contained in the plans that reads: "The existing building will be remodeled into a new campus for the San Jose Christian College. Work will be staged in three major phases of activity." It was her understanding that the three phases of activity would include the following: 1) demolition permit, 2) building remodel, and 3) future addition/new construction. She stated that the applicant may not be applying for a permit for future phases but noted that the three phases are included in the plans based on her interpretation of the plans submitted.

Mr. Cardinal clarified that the permit being sought is limited to interior demolition for the existing structure. He stated that his firm was not instructed to plan for any future additions, master plan, nor new construction.

Council Member Chang asked why the plans submitted included future phases of work to be undertaken? If the Christian College did not want to build phases in the future, why was future development included in the plans?

Mr. Cardinal responded that ultimately, after demolition, there would be some form of building remodel. However, that is not the subject of this application. The information contained in the plans was simply to alert the building official that the applicant would come in when the zoning issue was dealt with properly. At that time, he could make a separate permit application for future remodels. He indicated that at no time was he told that there would be future new construction.

Mayor Kennedy asked Mr. Cardinal if he was the original architect? Mr. Cardinal responded that the plans were prepared by his office and that the draftsman who prepared the plans tried to include the ultimate big picture. He stated that the notes are standard nomenclature wording. If the language is the barrier to the issuance of a demolition permit, the language could be modified as this was not the intent nor was his office instructed to place these notes on the plans.

Mayor Kennedy stated that it appears that the intent of the application was to alert the building department of the long range plans.

Mr. Cardinal clarified that notes were included to state that other phases were not to be included in this application and that all that is being covered under these plans is the demolition of the interior building. Any future activity would be the subject of a future application and permit.

Council Member Chang stated that if the applicant is not proposing to proceed with future construction, there was no need to include the phases/notes in the plans. She did not see that there was a note clarifying

that there would not be three stages of activities as previously described.

City Manager Tewes stated that the City Council is considering the recommendation of the Planning Commission on whether or not to approve the zoning application. He stated that one of the major issues addressed at the Planning Commission hearing was whether or not the application correctly identified the College's future plan. He said that the record was clear that the College testified that the future ideas were just ideas/visions and that they had no plans to move forward with these ideas. However, when you review the demolition permit, it contains language referenced by Council Member Chang that suggests that there would be subsequent phases that would require additional construction.

Mr. Cardinal reiterated that the notes are standard nomenclature from his office whenever demolition is proposed as there are typically subsequent phases. He stated that if the language is a barrier to the process, the notes can be removed.

Mayor Kennedy stated that the plans did not make reference to exclusions but identified the phases that would take place. He stated that at previous meetings with Dr. Edrington, there were discussions about possible ways of share the college site with a medical service provider on an interim basis. He requested that Dr. Edrington elaborate on these discussions.

Dr. Edrington stated that it was his understanding that these discussions were confidential and private discussions as they relate to these issues. He stated that he was not prepared to undertake these discussions this evening in a public forum.

Mayor Kennedy stated that the new item identified for discussion by Dr. Edrington was a new 64,000 square foot building to be constructed on Monterey Highway by AM Construction. He inquired as to any other new issues that Dr. Edrington would like to raise.

Dr. Edrington responded that a lot of the new issues were discussed in private and that he did not want to address them this evening because a conclusion had not been reached about these issues. He is hoping to come to conclusion with regards to other new issues.

Council Member Carr requested clarification about the proposed medical office building to be located on Monterey Road, across from the post office.

Director of Community Development Bischoff stated that an application has not been submitted for development on the Monterey property.

Mr. Edrington clarified that it was his understanding that someone has discussed a proposal to construct medical offices on Monterey Road with staff but that an application has not been submitted. He stated that the point of his comment was that there are medical healthcare options available to the City.

Council Member Carr inquired what would happen to the property should the Council deny the zoning application request? Dr. Edrington responded that the College would look at its options and stated that he did not have answers to present the City Council this evening. He is still pursuing the use of the site as a college campus because it is a strong and good use of the site. Therefore, the College will use whatever remedies it can to solve the problem.

Mayor Kennedy stated that it was his recollection that at the last City Council meeting, Dr. Edrington mentioned the possibility of shared uses as one of the items he would like to pursue.

Dr. Edrington stated that he did not recollect mentioning the possibility of shared uses. He did mention the fact that the College explored some options and tried to discuss them with the City.

Donald Sweet stated that he did not hear anything new of substance presented by the applicant this evening. He requested that the City Council work with the Christian College to find land, help with the rezoning and build a facility to provide a home for the College in Morgan Hill while retaining the hospital site for medical facilities. He did not believe that there was an immediate need for a full-blown medical facility but that it can start with a small urgent care facility and additional medical facilities needed.

Bernie Mulligan stated that he did not have any new information to propose this evening.

Dennis Pinion stated that he did not hear anything new presented that was of substance. If there was something new presented that was of substance that would affect the City Council's decision this evening, he felt that the City Council would be required to refer the new information back to the Planning Commission for its consideration. He said that there was misdirection regarding other lands being available for medical services in Morgan Hill. It was his belief that the issue is whether there are other lands available in Morgan Hill for the College because it is their job to find land for the use they would like to pursue. He felt that it was a large gamble to buy land that is not zoned for the purpose desired and then to try and change the zoning on the land.

Gary Palacios felt that Council meetings were public meetings where individuals can share views before the Council makes an opinion on an issue. He felt that the Mayor and Council Member Chang had a predetermined answer on how they would be voting on the issue. He felt that members of the community need to speak before hearing the Council's decision. He indicated that he spoke to approximately 40 individuals in his neighborhood and in Morgan Hill who state that the hospital has intrinsic value and should be held for the future. He said that 80% of his fellow employees are Kaiser members. He recommended that the City work with the City of Gilroy on their hospital. He felt that the College would bring character and respect to the community, bringing great people who would work and spend their money in the community.

Kit Greenberg stated that based on what has been presented this evening, the College is not willing to guarantee that they would not make an application for additional building permits in the foreseeable future.

She felt that the College intends to move forward because they have stated that their playing fields flood and that they need a different playing field. If fields are needed, the College would need to apply for building permits. She requested that the City Council consider the safety and the welfare of the citizens of Morgan Hill as it makes a decision this evening.

Grace Fenn, Family Worship Center, stated that citizens are supportive of the City Council as well as the College. She is a Kaiser member as well as a Spanish interpreter, serving the community. She said that she would like to hear new information on how City leaders will be bringing medical facilities to the community. She encouraged the City Council to find other options and work with the College.

Mike Achkar, president of Morgan Hill Medical Center, indicated that he has plans to build a 65,000 square foot medical center across from the post office. He distributed plans to the City Council for its review. He felt that everything that the Christian College would do for the community would be a benefit. He felt that the plans he presented would answer the problems associated with a medical facility. He requested that the Council give his plans consideration before voting on the zoning for the College. He felt that a medical facility would be convenient across from the post office. He informed the City Council that he has spoken to Planning staff who indicate that the property located on Monterey Road is the correct zoning for a proposed medical office building.

No further comments being offered, the public hearing was closed.

**Action:**        *Council Member Tate made a motion to approve the Negative Declaration. The motion died for the lack of a second.*

Mayor Pro Tempore Sellers said that he has been involved in healthcare negotiations the past two weeks. He read from a prepared statement and indicated that this has been the most difficult policy decision that he would have to make. He felt that the issues were both complex and emotional with the implications to the community being significant. When he voted to delay a decision for two weeks, it was with the hope that a compromise would be reached. Although one has not been made, he is hopeful that it would be attainable. He felt that it was time to vote on the zoning request and to state clearly his views on this matter. He said that after months of deliberation and consideration, the decision has come down to two fundamental issues: 1) He was convinced that medical services could be restored in short order and that this is the best way to restore full medical services to the community in the future. 2) He was convinced that should the City Council allow the building to be converted to another use, the city would face a time when it needs a hospital and would not be able to afford or find one. He felt that it would take all of the community to begin to replace what has been lost and that many of the services would not be immediately restored. He felt that the hospital foundation model offers several advantages that would make a healthcare facility successful. He did not believe that the hospital foundation was profit driven but would provide supplemental funds to ensure its success. Providing select healthcare services from profitable healthcare providers, the community can maximize both its healthcare resources and the opportunity for success. He felt that the hospital foundation can provide what will work and expand what is needed. Regarding the

future of the existing building, he felt that the vacant building that stands as a monument to healthcare deregulation can once again be a centerpiece of the community's healthcare. If the community loses the building, the day will come when the community needs a hospital but will not be able to find a location or the funds required to build one. He agreed that the College would be a great addition to the community, even in a shared facility. He would support such an effort and would continue to do what he can to make this happen. He felt that the facility at Cochrane Road may not be the best long term location for the College as the building would require millions of dollars to retrofit and that it is 15 acres shy of the stated long term need. It is surrounded by land that will be developed soon and that the impacts of expansion on the neighborhood would be significant. While this may not be the right site, he noted that the individuals associated with the College have been gracious and honorable and welcomes the opportunity to accommodate them at an appropriate site. He stated that he would vote to deny the zone change request on this parcel.

Council Member Tate stated that he looked back to when this issue came up approximately 1.5 years ago: 1) CHW failed at the St. Louise site and went out of business. 2) The City Council commissioned the HOM group to prepare a report, noting that the report concluded that a hospital did not work and did not recommend that another hospital be established. 3) The City Council joined together and put in writing the objectives for healthcare services, soliciting requests for proposals to obtain bids/proposals on how to reestablish medical services at the former St. Louise facility. He noted that as of last June 2000, the City failed to receive a viable proposal. As this was the third strike, he felt that it was time to move forward. He indicated that he has received several e-mails and phone calls from citizens requesting that the Council preserve medical services and the hospital. He has asked these individuals how this can be done at this facility, noting that he has not seen a complete answer that he can accept. This has led him to the conclusion that the City cannot make the hospital site work. He stated that he has serious concerns regarding how the process has been followed. He said that he did not make the motion to approve the Negative Declaration without a great deal of thought. He was concerned with the notion that the City was not following the CEQA process, noting that there would be future stages. He felt that the City Council was still in control and that it is capable of stating to the College that it has use of the buildings, zoning the building for said use. Should the College perform one action outside of what has been approved, the City Council could require a full-blown EIR. He was willing to take the College's word that they do not have plans other than what has been stated (e.g., get the College, up and running). He expressed concern with the Measure P issues raised by developers. He agreed that additional population would be brought into the community if the College is relocated that would add to the Measure P population cap. He did not believe that the City has addressed this concern but felt that it could be addressed should the application move forward. He felt that the community needs to remain focused on the issues and find the best and quickest way to get medical services in the community.

Mayor Kennedy stated that in his discussions with the director/general manager of the Santa Clara Valley Medical Center, it was indicated that the HOM Group also did not recommend that they expand their center. He said that the HOM Group has a standard model of distributing medical facilities/malls. The director decided to expand irrespective of the HOM Group recommendation. They built a new hospital,

noting that it has been overwhelmingly successful. He stated that he was convinced that a community hospital can be successful. He felt that the success would depend, to some degree, on demographics and that it would take time to restore it to a full acute care facility. He stated that he may have had written comments prepared prior to the last meeting. However, it has been his belief, throughout the process, that the hospital site needs to be retained as a medical hospital site as it is the only medical hospital site in town and that it is the community's only chance of restoring hospital services to the community. He said that there are medical providers who are ready to operate in the existing facility. He said that there is a viable valid offer from a specialized surgical hospital which would reopen the hospital and re license it as a specialized surgical hospital. They have also agreed that when the demographics and patient numbers are correct, they would restore the facility to a full acute care hospital. He said that there are several urgent care providers who are interested and willing to operate an urgent care facility. There is also a commitment from a group of doctors who are willing to occupy and lease the medical office space in the facility and a physical therapy group is willing to occupy the physical therapy portion of the hospital. He noted that a cancer clinic is associated with this facility. In addition, the lab and imaging facilities would be reactivated by the specialized surgical hospital. He has discussed with Kaiser and other convalescent providers the leasing of skilled nursing beds. He requested that City Manager Tewes provide supporting numbers.

City Manager Tewes stated that a feasibility study was conducted and that the Blue Ribbon Task Force (BRTF) has heard testimony and received proposals that suggest that the property of the former St. Louise hospital could be used for medical services consistent with its current zoning (current restrictions of the PUD). However, the City does not have actual contracts. He noted that one of the recommendations of the BRTF is that the City Council create a foundation and that they move forward to implement the medical service objectives. This would require turning the proposals into actual contracts. He stated that based on what the proposers have told the City, there is a range of income that would be available to the owners of the former St. Louise property. If the medical office building was fully leased, the rental income could range from \$500,000 to \$700,000 annually. A proposal has been heard from a specialized surgery hospital that has expressed a willingness to occupy as much as 40,000 square feet of the facility, paying higher rents ranging from \$1 to 1.5 million per year. There have been several proposers who have expressed an interest in providing urgent care, renting space from \$60,000 to \$85,000 per year. Based on the proposals received by the City Council and the representations made to the BRTF, there is a range of income potential between \$1.7 and \$2.3 million annually. He noted that the current PUD allows for the construction of 100 units of elder care. This property would be sold or ground lease to an elderly care operator, generating income. There would be remaining portions of the hospital as well. He said that it was his understanding that the owners of the property and holders of the deed is CDF, the Church Development Fund, with Catholic Healthcare West holding a security interest on the property. If the zoning application is not approved, he stated that the current PUD regulations would continue and that there would be viable use of the property.

Mayor Kennedy stated that he has made it clear all along that the hospital should be saved for medical purposes. He felt that this is a viable goal and that it can be done. He said that he has been open to other alternatives but that he has not been swayed from changing his position. He reiterated that he would support

the College coming to Morgan Hill and that he would do everything that he could to make this possible. However, he felt that this is the wrong site for the College.

**Action:**        *Mayor Kennedy made a motion, seconded by Council Member Chang **to deny** the request to change the zoning.*

Council Member Chang stated that she has been trying to work with the College and ask that they work with the City to achieve a win win solution for both the citizens of Morgan Hill and the College. She stated that she approached Dr. Edrington approximately four months ago requesting that he work with her and share the facility. She indicated that her request was turned down. She noted that up to this point, she has not been able to attain a commitment from the College. She felt that medical services was the most important issue to the citizens of Morgan Hill. Based on this fact, she would support the motion to deny the zoning amendment request.

Council Member Carr stated that this has been a difficult and troubling decision for the City Council. He thanked everyone for their comments as it is important to hear everyone's view points. Two weeks ago, when he voted to approve extending a decision out for two weeks, he did not know how he would vote on the issue. He felt that the two weeks would be used to allow the parties to get together and work out a compromise that would be advantageous for the City of Morgan Hill and the College. He said that individuals at the table have put in many hours whose hearts were in the right place with honest intentions in trying to work things out. He stated that he was disappointed that negotiations were not fruitful and moving forward in a direction that is different from the action to be taken this evening. He hopes that the doors are not closed for negotiations and that there would be ongoing discussions about the property owned by the College. He expressed concern with impacts to the existing neighborhood with the possible expansion that the College would bring to the residents. As a School Board Member, the School District brought building plans before the City for a new high school and elementary school. The School District was met with thorough and strict reviews of their plans, including future expansions. The School District tried to do its best to make sure that individuals were comfortable with the expansion so that they can gain support from the City and the residents of Morgan Hill. He did not believe that the citizens of Morgan Hill have a comfort level with the College. He would like to see the College grow, flourish and succeed. He would hate to see the City of Morgan Hill deny future expansions after allowing the College to come into the community. He expressed concern with what would happen to the property if the College was not able to attain its ultimate goal. Also, of concern was the issue of census counts and Measure P caps. He stated that housing, including affordable housing in Morgan Hill, is an issue of great concern to him. Issues that would impede the caps on Measure P are issues that he would pay close attention to. He hopes that both the City Council, staff and the applicants would be willing to continue discussions after the vote and action this evening and find a meaningful resolution to this issue. He stated that he would support the motion.

Council Member Tate requested that the motion be clarified.

Mayor Kennedy clarified that the motion would be to deny the request to change the zoning by minute

action.

City Attorney Leichter stated that it would be staff's understanding that the City Council would direct staff to return with a resolution, incorporating the findings based on the record and the proceedings to date. Staff would return in two weeks with said resolution.

**Vote:** *The motion carried 4-1 with Council Member Tate voting no.*

## **OTHER BUSINESS:**

### **10. ANIMAL CONTROL PROPOSALS** *(Continued from 1/17/01)*

Chief of Police Schwab presented the staff report.

Mayor Kennedy suggested that a cat sterilization voucher program be made available if owners register their cats with the city for a six-twelve month trial basis to see if it would work.

Chief of Police Schwab stated that the cat sterilization voucher program would add some substantial cost and workload to the Animal Control's operation. If implemented as suggested, the committee is recommending that Morgan Hill spend approximately \$7,900 to subsidize vouchers. It is anticipated that the administrative workload to track the vouchers would probably add another \$1,500 in administrative cost and work load to the Animal Control program per year. Staff recommends that should the Council wish to look into a voucher program for cats that it be limited to cats owned by citizens of Morgan Hill.

Mayor Pro Tempore Sellers felt that there would be an increase in the spay and neutering of cats among those who would not be able to afford it otherwise. He stated that he was more interested in the unowned feral cats and providing assistance toward these. He expressed concern with the health of the animals being spayed and neutered such that the city would perpetuate diseases and other problems by not addressing these problems.

Chief of Police Schwab stated that staff contacted veterinarians in the community and sought their opinion on all five of the proposals. One veterinarian stated his opposition to the voucher program for the reasons identified by Mayor Pro Tempore Sellers. One veterinarian supported the voucher program but not using tax payers' dollars to serialize cats that are not owned by Morgan Hill residents. He said that the County will issue vouchers for unowned/feral cats, including those in the City limits as this is a regional program. He indicated that staff does not recommend the implementation of the sterilization voucher program.

City Manager Tewes said that staff is not recommending pursuing the sterilization voucher program at this time, noting that Mayor Kennedy is suggesting a trial period. He indicated that another option would be to assist working with the county to market the existing service that is available, collecting data and reporting back to the Council to see how the city should proceed from that point.

Chief of Police Schwab said that it is being recommended that the City Council direct staff to develop language to double fines for unsterilized dogs running at large. Should the Council wish to mandate sterilization, staff would recommend that the city utilize a fine structure to discourage unsterilized dogs at large by increasing the fines each time a dog is impounded. Staff does not recommend action be taken on the Animal Control Diversion Program nor the animal fancier program as there are alternatives to these programs. Should the Council wish to raise the number of pets a citizen can own, he felt that the upper limit is set in the current ordinance. Regarding the city-funded cat sterilization voucher program, staff recommended that the Council take no action on this program. However, if the Council directs staff to develop a program, staff would recommend that the Council limit the program to cats owned by residents of the city on a trail basis.

Mayor Kennedy opened the floor to public comments.

Ava Geddes, Board of Directors, Town Cats, recommended that the City Council approve a modified spay/neuter cat voucher program for low to middle income city residents not covered by other programs. She felt that coordinated programs would successfully reduce the number of unwanted cats and the sheltering/euphanizing expenses associated with feline overpopulation. She indicated that Town Cats receives many calls from city residents who need help with stray, feral or abandoned felines which both relieve the burden to Animal Control officers and skews officially reported counts. She indicated that local costs to neuter male cats range from \$22 to \$212 and to spay female cats is \$57 to \$347. Town Cats recommends that city residents wanting to use the program complete an application, provide proof of income/residency within the city limits, and pay a \$10 co-payment for altered surgery. Those that can be covered other programs would be referred so that the city's costs are effectively managed. She indicated that Town Cats volunteers can administer the voucher program, avoiding increase demand on animal control officers and city cost. When implemented, money set aside for the program will stay in the City's account and not be paid to nor subsidize Town Cats. She indicated that Town Cats would require a \$50 surrender fee, half the fee charged by the Humane Society. Town Cats is a "no kill" organization and the only rescue group that works with the San Martin Animal Shelter to help find permanent homes for cats. Town Cats wants to work cooperatively with the City to develop a progressive and humane animal control program.

Dr. Rick Leininger indicated that there is a problem in the community with feral and unaltered cats. He stated that he does an extensive amount of work for the county and that last year alone, he altered over 350 cats that were part of the county program. If an individual calls and indicates that the cats are owned, he would not be allowed to help them as the program is only for feral cats. He felt that there are a lot of cats that otherwise go unaltered because individuals cannot participate in the program. He addressed the health of the animals and tests them for communicable diseases that are transmitted in the feral cat population. He felt that altering of owned cats is a noble cause and a worthy allocation of city funds.

Dr. John Quick spoke in support of staff's recommendation. He did not believe that suggestions of spending city funds have significant merit. He stated that he opposes the maintenance of feral colonies due

to the predation and damage to wildlife habitat and wildlife food. He felt that the wisest expenditure of City funds is to broaden the animal contract with the animal shelter in San Martin as they have a full range of services with a professional staff and organization.

Mayor Kennedy stated that it was his understanding that the San Martin Animal Shelter would not accept animals from Morgan Hill residents.

Chief of Police Schwab said that up until 1995, the County provided animal control services at no cost to the City as it was a county program. In 1995, the County chose to pull out of animal control in all incorporated cities, necessitating cities to start their own programs. Currently, when the city impounds an animal, they are taken to the San Martin Shelter for a fee or to the San Jose Humane Society for a similar fee, assuming there is room to accept the animal. Due to recent legislation that requires animal shelters to hold animals longer, the San Martin facility is full all the time. The city's only avenue is to take animals to the Humane Society. He indicated that staff will be proposing an augmentation in the amount of money used to transport and house animals surrendered to the city and pay to have the animals taken up to the Humane Society in next year's budget.

Mayor Kennedy noted that Dr. Quick stated that he opposed subsidizing the sterilization of feral cats but that he also stated that he opposed feral cats running wild and destroying the wildlife food chain. He found these statements to be contradictory. He felt that the City would want to support the sterilization of feral cats as it would slow down their population growth.

Dr. Quick clarified that he does not oppose sterilization of feral cats but that he opposes their release back into the wild because of predation. He stated that there are mixed studies that state there is not a significant reduction in the feral cat population through the capture, neuter, release and feed programs. No further comments were offered.

Council Member Chang stated her support of staff's recommendation. She said that she has a hard time spending tax payers money on animal programs.

Council Member Tate stated his support of a cat sterilization voucher program on a three to six month trial basis as it does not appear to be a large expense. This trial basis would allow the city to attain a measure on city resident owned cats that get rejected by the county.

Mayor Kennedy supported a cat sterilization voucher program for a six-month trial period for Morgan Hill residents.

Council Member Sellers recommended that the Chief of Police return with the parameters on how the voucher program would work.

**Action:**        *It was the consensus of the majority of the City Council to **proceed** with staff's*

*recommendation with the addition of a six-month cat sterilization voucher program for city-owned cats for low income residents. Staff to return with the program for Council action.*

**11. REQUEST FOR A DETERMINATION BY THE DIOCESE OF SAN JOSE REGARDING A FUTURE HIGH SCHOOL SITE IN MORGAN HILL**

City Manager Tewes presented the staff report. He stated that the city received two letters from Monseigneur Mitchell from the Diocese of San Jose seeking Council policy direction on potential sites for a new Catholic high school in the community. The first letter related to the McKelvy site located on Hale Avenue. The second letter relates to the T1 site located at the northeast corner of Tennant and Murphy Avenues. He noted that both sites are located outside the City limits and that they are relatively approximate to City services and could be serviced. The letters raise planning issues for Council consideration. He clarified that it has been the City's practice and the policy of the City and the County to provide services to urban uses such as is being proposed when the facility is located inside the city limits. One approach would be to seek annexation of these properties. Failing annexation, it would be possible to seek approval from the Local Agency Formation Commission (LAFCo) to provide service outside the city limits. He said that statutes give the Morgan Hill Unified School District certain opportunities to proceed in a different manner. As this is a private development, it would require LAFCo's approval for the City to annex the property or to extend services outside the city limits. He indicated that both sites would require a change in the general plan designation. Monseigneur Mitchell suggests that the Council consider a change in general plan designation for the McKelvy site in conjunction with the general plan update. Staff believes that it would be appropriate to consider a general plan change as a separate matter so as not to slow down the environmental review of the general plan update.

Mayor Pro Tempore Sellers inquired if there is a conflict should a council member be of one religion or another? City Attorney Leichter responded that a conflict would not exist as religion does not play a part in the decision making process.

Mayor Kennedy opened the floor to public comment.

Reverend Monseigneur Mitchell stated that it was important to have a sense of what the Council felt is best for the City of Morgan Hill. He said that both sites have development problems attached to them. It is acknowledged that the site to the north would be advantages to attract that part of the student body that would come from the City of San Jose but would have traffic impacts. He felt that mitigation measures could be applied to the T1 site. He requested City Council indication as to which site would be the preferable alternative.

Council Member Chang asked which site would be preferred by the Diocese. Monseigneur Mitchell stated that the Diocese would prefer the larger, T1 site. He indicated that a concern with the McKelvy site is that the Diocese would be assisting the City in providing a roadway through the middle of the property to assist

with the traffic mitigation from Madrone to Hale/Santa Teresa.

Council Member Carr asked where the student draw would come from? Monseigneur Mitchell responded that the student draw would come from Morgan Hill, Gilroy, Hollister and southern San Jose. He said that all of the Diocese's high schools are located north of the intersection of Highways 280 and 101, noting that the population in the southern part of the valley is increasing and that Coyote Valley would be developing.

Council Member Carr stated that while serving on the School Board, the Board had a lot of concern with property located along the railroad based on safety of students crossing the railroad tracks. He did not know if this concern would apply to a private school. Monseigneur Mitchell informed the City Council that a Catholic high school has been located adjacent to a railroad for 150 years with an unblemished safety record. The Diocese would have to take steps to ensure that traffic is reduced and have fixed boundaries/crosswalks.

Charlyn Perreir requested to know which site is preferred by the Diocese?

Mayor Kennedy stated that it was his understanding that the San Jose Diocese is looking for direction from the City Council. The Diocese indicates that either site would work, acknowledging that there are pluses and minuses associated with each site. The McKelvy site has disadvantages because it is a smaller site, is located adjacent to the railroad tracks and has a proposed street running through it. An advantage to the McKelvy site is that it is closer to San Jose and that it might be able to move quicker. The T1 site is a larger site, however, it is located further away from San Jose. He did not believe that the Diocese has made a final decision and is looking for some indication from the City Council.

Ms. Perreir stated that she resides at the T1 site. She indicated that she fought the School District and the City Council for two years in its search for a high school at the T1 site. She noted that this is a greenbelt agricultural working area and that there is precious little land left. She indicated that she and her husband saved their entire lives to move to the country. As a county resident, she is not allowed to vote on City issues. She felt that it was communistic for the Council to come into her neighborhood and decide what happens to her neighborhood without her having a say or vote on the issue. She requested that the City allow the agricultural greenbelt to remain and not allow a school to be built on the T1 site. She clarified that she is a neighbor to the T1 site and that she is also opposing a driving range proposed for the area.

City Manager Tewes clarified that the Council is not being asked to select a site for the private high school. The City Council is being asked which of the sites the Diocese should pursue a long planning process that would involve an environmental impact report and public hearings, general plan changes, and other discretionary decisions.

Ms. Perreir indicated that the adjacent property owners did not receive notification that this issue was before the City Council. She did not believe that the issue should be before the City Council as the T1 site is county land.

City Attorney Leichter clarified that the Diocese has come to the City because should they locate the high school at the T1 site, they would probably request that the City provide water and sewer to them as the County does not provide sewer or water service. There are certain legal requirements that the Diocese would have to go through to get the area incorporated into the City or the County would have to approve an agreement with the City and the Diocese to provide water and sewer to the T1 site. This would be a county action, not a city action. She clarified that none of these actions are before the City this evening.

Monseigneur Mitchell clarified that the Diocese is not purchasing Ms. Perry's property and that it would not pursue the use of eminent domain.

Tom DiVittorio, property owner located across from the T1 site, stated his support of the T1 site for the good of the community if the Diocese decides to proceed with a school at the site.

Al Perrier asked what would happen to the zoning of the neighborhood should the T1 site be annexed and rezoned?

City Attorney Leichter stated that the zoning of the surrounding area would not be subject to this application and therefore would not change.

No other comments were offered.

Council Member Tate supported having a Catholic high school locate in the community. He noted that the Diocese has presented the County with a couple of options. He looked at the options presented from a planning stand point. The McKelvy site is located adjacent to the Sobrato school site and that he did not believe that this site would work from a traffic stand point. He stated his support of the T1 site and said that he was disappointed that the Diocese did not have the support of the neighborhood. Should the process move forward, he felt that a lot of the concerns can be addressed. It was his belief that the primary concern of to neighborhood would be noise and traffic, issues that can be mitigated should the Diocese move forward with this site.

Mayor Kennedy stated that he was concerned with the McKelvy site due to the traffic, its close proximity to the railroad and the street going through the site. It appears that the Diocese is proposing a smaller high school versus what the School District was looking at with a student population of 1,200 students. As a smaller school, he felt that there would be smaller impacts. Of the two alternatives, he stated he would support the Tennant-Murphy T1 site.

Mayor Pro Tempore Sellers stated that he sympathizes and understands the issues that the Perreirs and the neighbors have raised. He understands how significant the impacts can be when one anticipates living in a rural environment. He indicated that it is the Council's task is to provide a preference that makes sense. When the City Council looked at the School District's high school proposal, it looked at the problems and the opportunities. He hopes that everything would be done to mitigate impacts to the neighbors and their

desire to remain agricultural, but that this would be a county issue and process. He felt that the T1 site would make more sense in minimizing the impacts. He shared the concerns of traffic and trying to accommodate the high school at the McKelvy site. He requested clarification on issues that the Council would need to address as they relate to a private school.

Council Member Carr noted that the General Plan Task Force (GPTF) set aside the Tennant corridor for a special study. Director of Community Bischoff informed the City Council that the GPTF is recommending a follow up study of the entire area east of Highway 101 and Tennant Avenue upon the adoption of the General Plan. The GPTF recommends that long range uses beyond the horizon of the plan be studied, including the greenbelt.

Council Member Chang noted that the T1 site is not in a greenbelt area, noting that the greenbelt is located south of Fisher Avenue. She stated that she would support whatever site the Diocese selects. Should they select the McKelvy site, the Diocese would have to mitigate traffic concerns.

Council Member Carr did not oppose the T1 site as a school site, noting that it was a top alternative site for a public school. He noted that Monseigneur Mitchell has heard comments from the City Council as well the adjacent neighbors.

Council Member Tate stated that he liked the school layout prepared for the McKelvy site even though he did not support the site due to traffic concerns. He recommended that a similar layout be presented to the neighbors early on in the process.

**Action:**        *The City Council **provided** comments and took no action on this item.*

**12.    REQUEST TO CANCEL THE REGULAR CITY COUNCIL MEETING OF APRIL 18, 2001**

Council Services and Records Manager Torrez presented the staff report.

Mayor Pro Tempore Sellers felt that this was a great opportunity for Mayor Kennedy and Council Member Carr to make the legislative trip to Sacramento to provide input to legislators. He asked if a special action would be required should he happen to be involved in the legislative sessions along with Mayor Kennedy and Council Member Carr?

City Attorney responded that if a majority of the City Council is to be in attendance at the legislative session, it may necessitate a special meeting notice.

Mayor Kennedy stated that he has attended several similar meetings in the past and that he received legal opinions on this issue. He indicated that there may be an exception for meeting with legislators.

Mayor Pro Tempore Sellers recommended that a meeting be scheduled on April 11 should it appear that the April 25 meeting would have a lengthy agenda.

**Action:**      *On a motion by Council Member Chang and seconded by Council Member Tate, the City Council **Canceled** the Regular City Council Meeting of April 18, 2001; and directed staff to **Carry** Over The April 18, 2001 Items to the Regularly Scheduled Redevelopment Agency Meeting of April 25, 2001, if not a full agenda. If a full agenda, staff is **directed** to schedule a special meeting on April 11, 2001.*

**13.      FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT -  
DECLARATION OF PUBLIC BALLOT PROCEEDING AND ESTABLISHMENT OF  
PUBLIC HEARING DATE**

Council Member Chang indicated that she resides withing 500 feet of one of the districts. Therefore, she would be stepping down from discussions.

Mayor Kennedy stated that he resides in El Dorado I which may be close to one of the districts.

Assistant Director of Public Works Struve presented the staff report. He indicated that one questionnaire was returned from the La Grande sub area where they approved an increase in assessment and payback of the funding deficit over a five-year period. No other questionnaires were returned to staff. However, he received seven phone calls from property owners in the Sandalwood area. At the community meeting, 10 of the 11 property owners were represented in the Sandalwood area. No property owners attended the community meeting from the La Grande nor the Jackson Meadows, Unit 7 area. Staff recommends that it be allowed to proceed with a balloting procedure for each of the three sub zones. He indicated that ballots would be mailed out to include two proposed alternatives, both proposing to raise the assessment to cover the current maintenance cost and to pay back the fund deficit over a three or five-year period. He indicated that each proposal includes a cost inflation of 3% maximum per year. He indicated that staff would mail ballots and notices next week with a public hearing scheduled within 45-days.

Council Member Tate said that in reading the letter dated January 27 from a Sandalwood property owner, it was stated that a better job could be done if a homeowners' association was formed and performed the maintenance. He felt that this is a legitimate request and inquired if there was a way to automatically grant the approval of the formation of a homeowners association? Mr. Struve informed the City Council that staff has requested that the City Attorney investigate this request, noting that it would take 100% approval of the property owners to form a homeowners association. He stated that since the letter was written the homeowner has informed him that they are no longer interested in the formation of a homeowners association.

Mayor Kennedy opened the floor to public comment.

Tony Wilson, representing the Sandalwood subdivision maintenance district, expressed concern that the homeowners were being asked to: 1) pay for an increase in the current yearly dues to maintain the district, and 2) address a deficit that has occurred over the years. He stated that the homeowners were very disappointed in the service level that they have been receiving over the year and being made responsible for the deficit. At a community meeting, the homeowners were looking at other options versus paying an increase for a level of service that they were not comfortable paying a deficit when it is unclear how it occurred. One option considered was the formation of a homeowners association (HOA) in order to take on the maintenance. However, it is not longer considered feasible by the neighborhood. The homeowners requested that staff include an additional item on the ballot that would decline the increase in the yearly dues as well as decline payment of a deficit. He stated that when property owners bought into the neighborhood, they purchased property knowing that they would be paying approximately \$200 on an annual basis. The homeowners are now looking at an increase for a level of service that is not consistent. He informed the City Council that the vegetation remaining is sparse with a lot of the landscaping dying and that no replacement vegetation has been installed. He indicated that several residents witnessed drive-bys by landscape contractors who did not perform maintenance.

Mr. Struve stated that he did not find the contractor to be overly neglectful. He felt that the City can become more vigilant of the contractor.

Mayor Kennedy inquired as to the total cost to restore the landscaping to where it should be? Mr. Struve responded that he did not believe that it would cost more than \$1,000 to restore landscaping. He indicated that the increase in assessment was attributed to the deficit that has been accumulating of approximately \$8,439 for the Sandalwood sub area. He stated that the deficit in three sub areas resulted by the culmination of three things: 1) maintenance began before assessments were collected; 2) that an under estimation of maintenance cost; and 3) the need for a better accounting for costs per sub areas to more accurately identify the cost for each sub area.

Mr. Jones indicated that he has only lived in this area for one year and that he did not believe that he should have to repay a deficit that he had no benefit from prior to that year. Also, of concern is that others in the community are benefitting from the assessment district. He noted that the landscaped area along Hill Road is not visible to anyone in the subdivision but that individuals driving along Hill Road benefit from the aesthetics of the area.

City Manager Tewes referred to the data found on page 236 of the agenda packet, noting that it appears that the additional revenue needs to match current revenues with current expenditures. He stated that the problem appears to be a relatively high maintenance cost with only eleven property owners to spread it over.

Mayor Kennedy asked if the deficit could be spread over a 10-15 year period? City Manager Tewes stated that this would be possible. However, he noted that the assessment districts who have surpluses have been paying the deficit all along. Staff would need to perform a cash flow analysis to make sure that

the assessment districts are not being placed in a deficit.

Rosemarie Michelotti, 17171 Sandalwood Way, did not believe that most residents would object to an increase in assessment but object paying back a deficit considering the maintenance that has taken place. She did not believe that there is a benefit in maintaining the area on Hill Road to the homeowners, noting that it is the community who benefits from the Hill Road landscaped area. If there is a way that the homeowners could be released from maintaining this strip, they would agree to maintain their small park. She did not believe that the 11 homeowners should foot the \$8,439 deficit.

Mayor Kennedy stated that in a typical development, homeowners share the responsibility for maintenance of the parking strip found in front of their homes. In this case, a fence separates the homeowners from a street. He felt that it would be appropriate for the homeowners to be responsible for maintaining the strip of land, even if separated by a fence. However, he expressed concern about the build up in the deficit and felt that the City may share some responsibility for allowing the deficit to occur. He recommended that staff look at this issue as it was his belief that the City was partially responsible for allowing the deficit to reach this point. He asked if there was a way that the City could split the deficit with the homeowners?

City Manager Tewes said that should the Council conclude that the city is responsible for the deficit, the City Council could appropriate General Fund monies to pay for the deficit.

Mayor Pro Tempore Sellers stated that he would support splitting the cost to offset the deficit as long as it does not set a precedent. He supported staff's measure to be more diligent in monitoring the assessment district and maintenance.

Council Member Tate noted that existing homeowners associations are responsible for maintaining landscape strips even though their homes and the landscape strip are separated by a sound wall. He indicated that the City wanted to leave the Sandalwood area open but the homeowners requested that a fence be installed.

Mayor Kennedy recommended that the City pay for half of the deficit as the City shares in some of the responsibility.

Council Member Tate expressed concern that it has not been determined that the City is responsible for the deficit and that a precedent would be set.

Council Member Carr recommended that the City Council look at all the assessment districts to look at the funds being collected as it appears that some districts have surpluses, therefore, the rates may be too high.

Council Member Carr felt that the City may be at fault if it allowed some districts to be in a deficit while other districts in a surplus. He felt that the City needs to figure out a one time way of getting the funds to

where they should be so that the rates are set to what they should be and move forward from there.

City Manager Tewes stated that when Proposition 218 passed, it made it difficult to adjust the rates to reflect any increases in cost. Therefore, there is an incentive for districts to allow surpluses to build so that they will not have to deal with rate increases.

Mayor Pro Tempore Sellers noted that exhibit C, pages 228-236, refers to the three assessment districts, including their deficits. It was his belief that the premise that the Council can operate under the premises that the size of the assessment district is small (11 lots) and the size of the deficit was partially the City's fault for not catching the deficit sooner. He stated that he would agree to reduce the deficit by half if the homeowners would agree to pay for half of the deficit.

Council Member Tate felt that if it can clearly be established that the City has some liability, the City should pay some of the liability and avoid a precedent being set.

Mayor Pro Tempore Sellers stated that should the Council wish to reduce the deficit by half, he recommended that language be added to the ballot such that the city council has agreed to reduce the deficit by half, should the residents support paying for their half of the reduction for the next three years.

Mr. Struve indicated that the resolution contained flexibility and that the Council could direct staff to proceed with the ballot, as amended.

City Manager Tewes clarified that staff would calculate the appropriate rates of assessments and include these rates in the ballot.

Council Member Tate asked how the City Council could state that this is a one time action and that it will not set a precedent.

Mayor Pro Tempore Sellers felt that with better accounting, staff would ensure that this would be a rare case in the future.

Mayor Kennedy felt that the City's objective was to get the assessments as close to a zero balance as possible although he realizes that this is not realistically possible. He said that the homeowners would indicate whether they agree to make up half of the deficit when they vote.

**Action:**      *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) 1) **Adopted** amended Resolution No. 5456 Initiating Ballot Proceedings and Establishing a Public Meeting and Hearing Date; 2) **Directed** Staff to Mail Assessment Ballots and Notices, with the stipulation that the City's portion to reduce the deficit is contingent upon the homeowners association agreeing to increase their share to cover the other half of the deficit; and*

3) **Directed** the City Clerk's Office to Notice the Public Meeting and Hearing on April 25, 2001.

**Action:** On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously **appropriated** \$10,046 from the General Fund to pay for half of the deficit.

Council Member Chang resumed her seat on the dais.

## ***City Council & Redevelopment Agency Action***

### **CONSENT CALENDAR:**

**Action:** On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Carr, the City Council/Agency Commission unanimously (5-0) **approved** Consent Calendar Items 14-17 as follows:

14. **SPECIAL JOINT CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JANUARY 31, 2001**

**Action:** **Approved** the Minutes as written.

15. **JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF FEBRUARY 2, 2001**

**Action:** **Approved** the Minutes as written.

16. **JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF FEBRUARY 3, 2001**

**Action:** **Approved** the Minutes as written.

17. **JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF FEBRUARY 7, 2001**

**Action:** **Approved** the Minutes as written.

### **FUTURE COUNCIL-INITIATED AGENDA ITEMS:**

- Morgan Hill Historical Society presentation/update of their plans. (Council Member Tate)

### **CLOSED SESSION:**

City Attorney announced the below listed closed session items. She further stated that Item No. 1 is pursuant to a threat of litigation received in a letter dated February 15, 2001 from The Becket Fund.

**1.**

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION**

Legal Authority: Government Code 54956.8 & 54956.9(c) (1 potential case)  
Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of  
Road (St. Louise Hospital property)  
City Negotiators: Agency Members; Executive Director; Agency Counsel; and F. Gale  
Conner, special counsel  
Closed Session Topic: Potential Litigation

**2.**

**CONFERENCE WITH LEGAL COUNSEL - REAL PROPERTY NEGOTIATOR**

Legal Authority: Government Code 54956.8  
Real Property Involved: 3.85, 9.04, and 17.58 acre parcels located on the east side of Condit  
Road, bound be Condit Road, Tennant Avenue, Barrett Avenue and  
Murphy Avenue (APNs 817-13-008 & 011 and 017)  
Negotiating Parties:  
For City/Agency: City Manager/Executive Director; Interim City Attorney/Agency  
Counsel; Director of Business Assistance & Housing Services  
For Property Owners: T&C Development, LTD Partnership; Kathleen Sergi, Virginia Lomanto  
Trustee  
Closed Session Topic: Acquisition of Real Property

**3.**

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION**

Legal Authority: Government Code 54956.8  
Property: APN 817-13-001; 37.8 acres (soccer complex)  
Negotiating Parties:  
For City: City Manager, City Attorney, Public Works Director  
For Property Owners: Tadashi & Alice A. Kadonaga, Trustee  
Under Negotiation: Price and Terms of Payment

**4.**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority: Government Code section 54956.9(a)  
Name of Case: City of San Jose v. Morgan Hill Unified School District, City of Morgan Hill  
Case Number: Superior Court, County of Santa Clara, CV794073

**5.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Initiation of litigation pursuant to Government Code section 54956.9© (one case)

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor Kennedy opened the closed session items to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION:**

Mayor Kennedy adjourned the meeting to closed session at 10:43 p.m.

**RECONVENE:**

Mayor Kennedy reconvened the meeting at 11:38 p.m.

**CLOSED SESSION ANNOUNCEMENT:**

City Attorney/Agency Council Leichter announced that no reportable action was taken on the above listed closed session items.

**ADJOURNMENT**

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 11:39 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**Irma Torrez, City Clerk**